

**IN THE UNITED STATES DISTRICT COURT OF MARYLAND
NORTHERN DIVISION**

GAIL WILSON
3501 Milford Mill Road
Windsor Mill, MD 21244

Plaintiff,

v.

U. S DEPARTMENT OF VETERANS AFFAIRS
810 Vermont Avenue, N.W.
Washington, DC 20420

CASE NO.

L10CV2385

BALTIMORE VA MEDICAL CENTER
10 North Greene Street
Baltimore, MD 21201

Dr. Donald H. Gottlieb
10 North Greene Street
Baltimore, MD 21201

FILED ENTERED
LOGGED RECEIVED

AUG 30 2010

Dr. Ngozi Kelech Ezeude
10 North Greene Street
Baltimore, MD 21201

AT BALTIMORE
CLERK, U.S. DISTRICT COURT
DISTRICT OF MARYLAND

BY

DEPUTY

Serve On: U.S. Department of Justice
Eric Holder, Attorney General
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Defendants.

COMPLAINT AND DEMAND FOR JURY TRIAL

Gail Wilson, Plaintiff, by Edward Smith, Jr. and Kerrie A.

Campbell, her attorneys, alleges:

1. Plaintiff brings this action against the Defendant, United States of America, pursuant to the Federal TCA so that this court has jurisdiction of the subject matter of this action pursuant to 28 U.S.C. § 1346(b).

2. The Plaintiff has complied with all prerequisites to a suit under the FTCA in that;

a. On October 16, 2009 the Plaintiff timely filed an administrative claim for the matters in dispute in this action in the amount of Two Million Dollars (\$2,000,000.00) with the Department of Veteran Affairs.

b. The Defendant, by and through its agency, the Department of Veteran Affairs, failed to admit or deny its administrative claim within the six (6) months under the FTCA. (A copy of their acknowledgement of receipt is attached to this complaint as Exhibit A).

c. Thus, this action was timely commenced by their failure to admit or deny the claim.

3. Plaintiff also brings this action against Defendants Baltimore Medical Center, Dr. Donald H. Gottlieb and Dr. Ngozi Kelech Ezeude, physicians acting as the agents, servants and employees of Defendant, the United States of America, in the course of their employment, who along with other agents, servants and employees of Defendant United States of America but unknown to the Plaintiff committed the acts of negligence that are set forth more fully below.

4. Plaintiff is a veteran of the U.S. Military who resides at 3501 Milford Mill Road, Windsor Mill, MD 21244.

5. Defendant is a federal agency whose principal place of business is located at 810 Vermont Avenue, N.W., Washington, DC 20420.

6. Jurisdiction and venue of this Court is invoked pursuant to FTCA 28 USC § 1346(b) and § 1402, respectively.

7. At all times relevant, Dr. David H. Gottlieb, Dr. Ngozi Kelech Ezeude, and other unknown doctors and/or nurses, were employed by the Defendant.

8. As a result of the fault of the Defendants, by and through their agents, servants and employees, acting within the scope of their employment, Plaintiff suffered infections and injuries to her right foot and leg.

9. These injuries resulted from the negligence of the agents, servants and employees of Defendants, acting within the scope of their employment as follows:

10. On or about May 28, 2009, Plaintiff had surgery to correct a possible nerve entrapment, performed by Dr. Gottlieb at Baltimore VA Medical Center.

11. On post-operative visits, following the surgery performed by Dr. Gottlieb, Plaintiff complained of inflammation and severe pain to the surgical site to Dr. Ngozi Kelech Ezeude.

12. On or about July 6, 2009, the pain became so great that the Plaintiff was transported by ambulance to Northwest Hospital.

13. Plaintiff learned, after having x-rays, that a long piece of surgical tubing was still imbedded in her right foot.

14. Plaintiff was given pain medication with no relief.

15. Plaintiff was seen in the emergency room of the Baltimore VA Hospital on July 6, 2009, where after testing Plaintiff was diagnosed with severe infection and x-rays again confirmed that the surgical tubing was still present.

16. Plaintiff was admitted into the hospital for the purposes of treating the infection and upon the conclusion of the antibiotic treatment, Dr. Gottlieb performed surgery to remove the surgical tube.

17. Dr. Gottlieb apologized to the Plaintiff for his mistake and his colleagues' failure to act on her complaints during post-op visits.

18. Plaintiff was treated with antibiotics for the infection; and upon the conclusion of the antibiotic treatment, Dr. Gottlieb performed surgery to remove the surgical tube.

19. Plaintiff was released from the VA Hospital and scheduled for physical therapy, which is still ongoing.

20. Defendants were negligent in failing to properly perform the initial surgery in which the surgical tubing was negligently left in Plaintiff's foot.

21. Defendants, by their above actions, failed to follow generally accepted medical standards. Had they done so, the surgical tubing would not have been left in her foot and the resulting infections, injuries and surgeries would not have occurred.

22. As a direct and proximate result of the combined negligence of the Defendant's agents, servants and employees, Plaintiff suffered

infection and injury to her right foot and leg and has therefore become as a direct and proximate result, disabled, unemployable and disfigured.

23. As a result of these injuries, Plaintiff spent time in the hospital, continues to undergo extensive physical therapy and suffers pain of mind and body, permanent disability and disfigurement and has been damaged in the past in the aggregate sum of at least Two Million Dollars (\$2,000,000.00).

25. Plaintiff is in no way contributorily negligent for the injuries suffered.

Prayer

Plaintiff requests that this Court render judgment against the Defendants.

1. In the sum to be shown at trial, but in no event less than Two Million Dollars (\$2,000,000.00).
2. Including whatever pre-and-post judgment interest may be allowed by law; and that
3. Plaintiff be awarded costs of suit.

Respectfully submitted:



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